

## § 116.8

## 11 CFR Ch. I (1–1–07 Edition)

terms of the settlement of the debt owed to that creditor.

(3) The debt settlement plan shall include a statement as to whether the terminating committee has sufficient cash on hand to pay the total amount indicated in the debt settlement plan, and if not, a statement as to what steps the terminating committee will take to obtain the funds needed to make the payments.

(4) If a debt settlement plan does not include settlements for all of the terminating committee's outstanding debts and obligations, the debt settlement plan shall include a separate list of all of the terminating committee's remaining debts and obligations, including debts that are not subject to debt settlement as set forth in paragraph (c) of this section. The debt settlement plan shall indicate—

(i) Whether the terminating committee intends to pay the entire amount still owed on each remaining debt or obligation or to settle such debts and obligations, and if settlement is contemplated, the terms that were or will be offered to the creditor(s); and

(ii) Whether the terminating committee has sufficient cash on hand to pay such remaining debts and obligations, or to pay a lesser portion of such amounts, and if not, what steps the terminating committee will take to obtain the funds needed to make such payments.

(5) If the terminating committee expects to have residual funds or assets after disposing of all its outstanding debts and obligations, the debt settlement plan shall include a statement as to the purpose for which such residual funds or assets will be used. *See* 11 CFR 110.1(b)(3)(iii) regarding contributions received to pay net debts outstanding owed by authorized committees.

(6) The political committee filing the debt settlement plan shall demonstrate in the debt settlement plan that such political committee qualifies as a terminating committee under 11 CFR 116.1(a) and shall state when the political committee expects to file a termination report under 11 CFR 102.3.

(7) Upon the Commission's request, the candidate, the terminating committee or the creditor shall provide

such additional information as the Commission may require to review the debt settlement plan. The Commission may also require the submission of additional debt settlement agreements prior to Commission review of the debt settlement plan.

(f) *Commission review of debt settlement plans.* In reviewing the debt settlement plan, the Commission will consider—

(1) The information provided by the terminating committee and the creditors under this section;

(2) The amount of each debt that remains unpaid and the length of time each debt has been overdue;

(3) The amount and percentage of each debt that would be forgiven under the plan;

(4) The total amount of debts and obligations owed by the terminating committee to all creditors, compared to the total amount of cash on hand and other amounts available to pay those debts and obligations;

(5) The year to date expenditures and receipts of the terminating committee; and

(6) Whether the total percentage that was or will be repaid on any loans made by the candidate to the terminating committee is comparable to the total percentage that was or will be paid to other creditors.

(g) *Debts dischargeable in bankruptcy.* If a terminating committee is released from debts or obligations pursuant to a discharge under 11 U.S.C. chapter 7, the terminating committee's debt settlement plan shall include a copy of the order issued by the Bankruptcy Court of the United States so indicating, and a list of all debts and obligations from which the terminating committee is released, in lieu of the information specified in paragraphs (e)(1), (e)(2), and (e)(3) of this section.

### **§ 116.8 Creditor forgiveness of debts owed by ongoing committees; Commission review.**

(a) *General requirements.* A creditor may forgive the outstanding balance of a debt owed by an ongoing committee if the creditor and the ongoing committee have satisfied the requirements of 11 CFR 116.3 or 116.5, as appropriate,

## Federal Election Commission

## § 116.9

regarding extensions of credit by commercial vendors and advances by committee staff and other individuals, and the debt has been outstanding for at least twenty-four months, and—

(1) The creditor has exercised reasonable diligence in attempting to locate the ongoing committee and has been unable to do so; or

(2) The ongoing committee—

(i) Does not have sufficient cash on hand to pay the creditor;

(ii) Has receipts of less than \$1000 during the previous twenty-four months;

(iii) Has disbursements of less than \$1000 during the previous twenty-four months; and

(iv) Owes debts to other creditors of such magnitude that the creditor could reasonably conclude that the ongoing committee will not pay this particular debt.

(b) *Procedures for forgiving debts.* A creditor that intends to forgive a debt owed by an ongoing committee shall notify the Commission by letter of its intent. The letter shall demonstrate that the requirements set forth in paragraph (a) of this section are satisfied. The letter shall provide the following information—

(1) The terms of the initial extension of credit and a description of the terms under which the creditor has extended credit to nonpolitical debtors of similar risk and size of obligation;

(2) A description of the efforts made by the candidate or the ongoing committee to satisfy the debt;

(3) A description of the remedies pursued by the creditor to obtain payment of the debt and a comparison to the remedies customarily pursued by the creditor in similar circumstances involving nonpolitical debtors; and

(4) An indication that the creditor has forgiven other debts involving nonpolitical debtors in similar circumstances, if any.

(c) *Commission review.* Upon the Commission's request, the ongoing committee or the creditor shall provide such additional information as the Commission may require to review the creditor's request. The Commission will review each request to forgive a debt to determine whether the candidate, the ongoing committee, and the

creditor have complied with the requirements of 11 CFR part 116, and whether or not the forgiveness of the debt would result in an apparent violation of the Act or the Commission's regulations.

### **§ 116.9 Creditors that cannot be found or that are out of business.**

(a) *General requirements.* A political committee may request that the Commission determine that a debt owed to a creditor is not payable for purposes of the Act if the debt has been outstanding for at least twenty-four months, and the requirements of paragraph (b) or (c) of this section, as appropriate, have been satisfied, and—

(1) The creditor has gone out of business and no other entity has a right to be paid the amount owed; or

(2) The political committee has exercised reasonable diligence in attempting to locate the creditor and has been unable to do so. *Reasonable diligence in attempting to locate the creditor* means the political committee has attempted to ascertain the current address and telephone number, and has attempted to contact the creditor by registered or certified mail, and either in person or by telephone.

(b) *Terminating committees.* If the political committee making the request is a terminating committee, the terminating committee shall include the request in a debt settlement plan filed with the Commission, and shall demonstrate that the requirements of 11 CFR 116.3, 116.5 or 116.6, as appropriate, and 116.9(a) are satisfied. The terminating committee shall continue to disclose the debt on its schedules of outstanding debts and obligations until the Commission has completed its review of the debt settlement plan pursuant to 11 CFR 116.7(f) and has determined that the debt is not payable for purposes of the Act.

(c) *Ongoing committees.* If the political committee making the request is an ongoing committee, the ongoing committee shall make the request in writing and shall demonstrate that the requirements of 11 CFR 116.3, 116.5 or 116.6, as appropriate, and 116.9(a) are satisfied. The Commission will review the request to determine whether the ongoing committee and the creditor